

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

MITCHELL JOHNSON,)	
)	
Charging Party)	Cause No. 0031010323
)	
vs.)	ORDER AFFIRMING
)	NOTICE OF DISMISSAL
)	
DEACONESS BILLINGS CLINIC,)	
)	
Respondent.)	

The above-captioned matter came before the Montana Human Rights Commission (Commission) on July 17, 2003. The Commission considered Charging Party's objection to the Notice of Dismissal of his complaint. Oral argument was not requested.

After reviewing the record, the Commission concludes that the Human Rights Bureau properly dismissed the matter. A person alleging discrimination under the Montana's Human Rights Act bears the burden of establishing that he or she is a member of a protected class. *Admin. R. Mont. 24.9.602* In this matter, the Board concludes the record supports a determination that Charging Party was not a member of a protected class. Therefore, Charging Party failed to establish a prima facie case of unlawful discrimination on the basis of disability or that he had been retaliated against on the basis of disability. *See Mont. Code Ann. § 49-2-504(1)(a); Admin. R. Mont. 24.9.610* Further, Charging Party has failed to show that Respondent "aided and abetted" the potential employer, in that a finding was issued that the potential employer had not discriminated or attempted to discriminate. *See Final Investigative Report Cause No. 0031010323, pg. 1, f.n. 2* Consequently, the Commission determines there was no abuse of discretion by the Human Rights Bureau in its issuance of a Notice of Dismissal. *Admin. R. Mont. 24.9.1714(3)*

Charging Party will have 90 days after the receipt of this order to petition a district court in the district where the alleged violation occurred for the appropriate relief. *Mont. Code Ann. § 49-2-509(5) and Admin. R. Mont. 24.9.1714(5)* If Charging Party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

IT IS HEREBY ORDERED, that Charging Party's objection is overruled and notice of dismissal is affirmed.

Dated this _____ day of July 2003

Mr. Gary Hindoién, Chair
Montana Human Rights Commission

CERTIFICATE OF SERVICE

The undersign employee of the Human Rights Bureau certifies that a true copy of the forgoing Human Rights Commission ORDER was served on the following persons by U.S. mail, postage prepaid, on July ____, 2003.

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Montana Human Rights Bureau